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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

(A-489-816)

Certain Oil Country Tubular Goods From the Republic of Turkey: Notice of Court Decision Not in Harmony With the Final Determination of the Less Than Fair Value Investigation and Notice of Amended Final Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On May 10, 2016, the United States Court of International Trade (CIT) sustained the *Final Remand Redetermination*¹ pertaining to the less-than-fair-value (LTFV) investigation of certain oil country tubular goods from the Republic of Turkey (OCTG from Turkey).²

Consistent with the decision of the United States Court of Appeals for the Federal Circuit (CAFC) in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), as clarified by *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*), the Department is notifying the public that the CIT's final judgment in this case is not in harmony with the *Final Determination*, and that the Department is amending the *Final Determination* with respect to Çayirova Boru Sanayi ve Ticaret A.Ş. and Yücel Boru İthalat-Ihracat ve Pazarlama A.Ş. (collectively, Yücel). The period of investigation (POI) is July 1, 2012, through June 30, 2013.

DATES: Effective May 20, 2016

¹ See Final Results of Redetermination Pursuant to Court Remand (*Final Remand Redetermination*) in *Maverick Tube Corporation et al v. United States*, Consol. Court No. 14-00244, Slip Op. 15-107 (Ct. Int'l Trade September 24, 2015) (*Remand Order*), *aff'd* *Maverick Tube Corporation et al v. United States*, Consol. Court No. 14-00244, Slip Op. 16-46, (Ct. Int'l Trade May 10, 2016). The *Final Remand Redetermination* is accessible at <http://enforcement.trade.gov/remands/15-107.pdf>.

² See *Certain Oil Country Tubular Goods From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances, in Part*, 79 FR 41971 (July 18, 2014) (*Final Determination*).

FOR FURTHER INFORMATION CONTACT: Bryan Hansen or Minoo Hatten, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-3683 or (202) 482-1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 24, 2015, the CIT issued the *Remand Order*, directing the Department to reconsider the constructed value (CV) profit rate calculation used in the dumping margin analysis for Yücel, and granting the Department a voluntary remand to reconsider the duty drawback adjustment for Yücel.³ On remand, the Department: 1) recalculated Yücel's CV profit rate by replacing Yücel's CV profit and CV selling expenses with an aggregate figure representing the calculated CV profit and selling expenses of Borusan Manesmann Boru Sanayi ve Ticaret A.S. and Borusan Istikbal Ticaret A.S., the other mandatory respondent in this investigation, pursuant to section 773(e)(2)(B)(ii) of the Tariff Act of 1930, as amended (the Act); and 2) denied a duty drawback adjustment in its entirety for Yücel in its margin calculation.⁴ As a result, the estimated weighted-average dumping margin for Yücel changed. On May 10, 2016, the Court upheld the *Final Remand Redetermination* in full.⁵

Timken Notice

In its decision in *Timken*, as clarified by *Diamond Sawblades*, the CAFC held that, pursuant to section 516A(e) of the Act, the Department must publish a notice of a court decision that is not "in harmony" with a Department determination and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's May 10, 2016, final judgment

³ See *Remand Order*, Slip Op. 15-107 at 25-26, 30-38.

⁴ See *Final Remand Redetermination* at 7-9, 24-28.

⁵ See *Maverick*, Slip Op. 16-46 at 11-22.

affirming the *Final Remand Redetermination* constitutes a final decision of that court which is not in harmony with the *Final Determination*. This notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Determination

Because there is now a final court decision, the Department is amending the *Final Determination* with respect to Yücel's weighted-average dumping margin for the period July 1, 2012, through June 30, 2013, effective May 20, 2016. The revised weighted-average dumping margin for Çayırova Boru Sanayi ve Ticaret A.Ş. and Yücel Boru İthalat-İhracat ve Pazarlama A.Ş. (collectively, Yücel) is 13.59 percent.

Accordingly, the Department will continue the suspension of liquidation pending the expiration of the period of appeal or if appealed, pending a final and conclusive court decision.

Cash Deposit Requirements

Since the *Final Determination*, the Department has not established a new cash deposit rate for Yücel. As a result, in accordance with section 735(c)(1)(B) of the Act, the Department will instruct CBP to collect a cash deposit of 13.59 percent, adjusted where appropriate for export subsidies,⁶ for entries of subject merchandise produced and/or exported by Yücel, effective May 20, 2016.

⁶ See *Final Determination*, 79 FR at 41972-73 ("In the final determination of the companion countervailing duty investigation on OCTG from Turkey, the Department determined that the all other companies benefitted from export subsidies. Pursuant to sections 735(c)(1) and 772(c)(1)(C) of the Act and 19 CFR 351.210(d), the Department will instruct CBP to require cash deposits equal to the weighted-average dumping margins indicated below, adjusted where appropriate for export subsidies"); see also *Final Results of Remand Redetermination pursuant to the CIT orders in Borusan Mannesmann Boru Sanayi Ve Ticaret A.S. and Borusan Istikbal Ticaret v. United States*, 61 F. Supp. 3d 1306 (April 22, 2015) and *Maverick Tube Corporation v. United States*, Consol. Court No. 14-00229, Slip Op. 15-59 (June 15, 2015) (accessible at <http://enforcement.trade.gov/remands/15-59.pdf>), and *Oil Country Tubular Goods from Turkey: Notice of Court Decision Not in Harmony With the Final Determination of the Countervailing Duty Investigation*; 81 FR 12691, (March 10, 2016) (in which the Department calculated the "All Others" subsidy rate of 2.39 percent, including the countervailable subsidy rate for export subsidies in the amount of 0.22 percent). Yücel's cash-deposit rate will be calculated by subtracting the countervailable subsidy rate for export subsidies calculated in the countervailing duty final results of redetermination, 0.22 percent, from the weighted-average dumping margin rate of 13.59 percent, i.e., 13.37 percent.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1), 735(d) and 777(i)(1) of the Act.

Dated: May 31, 2016.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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